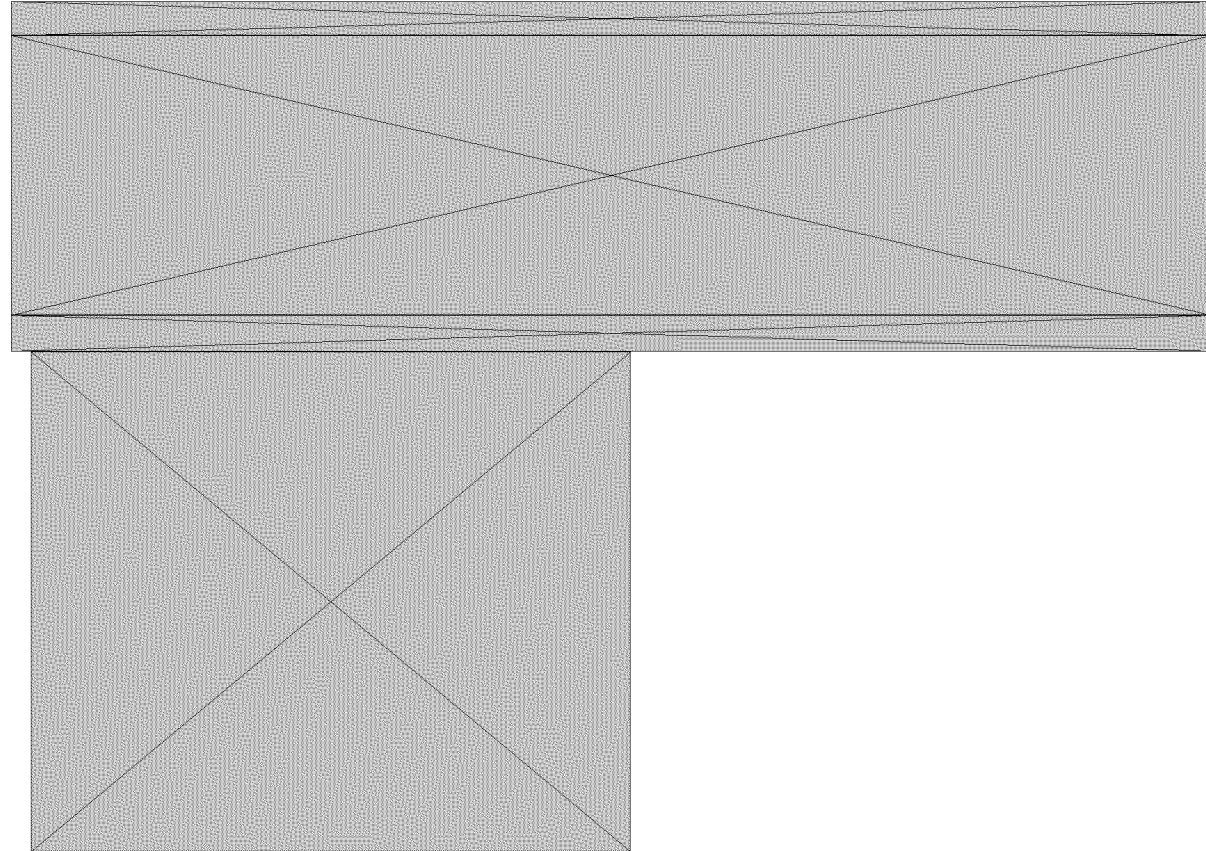


To: Ostrander, David[Ostrander.David@epa.gov]
From: EnergyGuardian
Sent: Fri 10/23/2015 11:17:32 AM
Subject: Analysis: Obama passes carbon rules, climate legacy to the courts, successor

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Energy and environment headlines for the morning of Friday, October 23, 2015



Analysis: Obama passes carbon rules, climate legacy to the courts, successor

By Kevin Rogers

The Environmental Protection Agency's publication Friday of the final Clean Power Plan in the Federal Register formally moves the fate of President Barack Obama's signature climate policy to the courts and his successor.

The rules for existing plants, which require states to develop their own plans to reach specific carbon reduction targets, will come under swift legal fire from states and industry groups.

which have been waiting to act since the rules were finalized August 3.

With the regulations published, those challenges can proceed, sending the landmark climate policy through a gauntlet of legal battles that's anticipated to reach the Supreme Court.

West Virginia, which led a coalition of 15 states in a failed attempt to block the rule in its proposal state, is ready to lead the charge. The states contend the agency is illegally moving to regulate power plants under two sections of the Clean Air Act and unlawfully forcing states to alter their energy mixes.

Speaking before the House Energy and Commerce Subcommittee on Energy and Power, state Solicitor General Elbert Lin said that the agency's three "building blocks" go well beyond the scope of the Clean Air Act.

The building blocks call for states to make coal-fired plants more efficient, replace coal-fired electricity with natural gas, and swap out fossil fuels for zero-emitting renewable energy.

"These building blocks attempt not just to regulate the efficiency of power plants themselves, but to favor one form of electric generation over another and to require states to completely reorder their energy portfolios," he said. "This is sometimes described as EPA's effort to regulate 'beyond the fence line' of the power plants, and it is not lawful."

Lin also contended that EPA did not have the authority to regulate power plants under Section 111(d) while they are regulated for mercury and other toxic emissions under Section 112. The states are expected to seek a stay of the rule, until the legal challenges can be resolved.

The agency and its supporters, however, argue it has the authority to interpret clashing 1990 House and Senate amendments to the law. The Senate amendment is more favorable to EPA's interpretation, while opponents argue that the House version should prevail.

"The Clean Power Plan is based on a sound legal and technical foundation, and it was shaped by extensive input from states, industry, energy regulators, health and environmental groups and individual members of the public from across this country," Acting Administrator for Air and Radiation Janet McCabe told reporters Thursday.

And Administrator Gina McCarthy said at a Center for American Progress event on Thursday that the rule was based on the best ideas coming out of the states, and denied any bad blood between the agency and the states.

"How do they do energy efficiency? How do they do renewable energy?" she said. "So I think EPA has frankly never had a better relationship and more open with the states and more respectful of one another."

"Must be referring to a different country," Sen. Steve Daines, R-Mont., said on Twitter in response, suggesting that McCarthy's view isn't accepted by some in the states.

The rule for existing plants, coupled with hard emissions limits for new fossil fuel plants, seek to cut sector emissions 32 percent from 2005 levels by 2030.

Lin argued against the proposed version of the rule in April, but a panel of the Court of Appeals for the District of Columbia Circuit ruled that it would be inappropriate to block the rule before it was finalized. The court, which will begin accepting petitions today, did not weigh in on the legal merits of the rule at the time.

But even with the impending challenge to the law, West Virginia is still moving to develop a state implementation plan, and to date, only Oklahoma Gov. Mary Fallin has pledged to reject compliance.

States will have until September 2016 to submit draft plans, with the potential to seek an extension of up to two years for final plans. Those plans would begin to take effect in 2022, following two early-action years that would give states incentives to install new renewable energy capacity.

Those distant start dates will also offer challenges for the survival of the carbon rules, as the 2016 presidential election picks up steam.

Democratic presidential candidates Hillary Clinton, a former secretary of State, and Vermont Sen. Bernie Sanders have pledged to uphold the rules and take them even further, as they press for a more rapid transition away from fossil fuels in favor of renewable energy.

Climate action has emerged as a central tenant of the party's platform, and a victory in 2016 would put the Clean Power Plan in safe hands if it survives legal challenges.

But should a Republican take the White House, the regulations would face an uncertain fate, as nearly all of the party's 15 candidates have denounced the rules as an economic assault, and most downplay any human role in climate change. And those who have laid out explicit energy plans, including former Florida Gov. Jeb Bush and Florida Sen. Marco Rubio, have put the Clean Power Plan in their crosshairs.

Obama, with the assistance of McCarthy and her EPA, has used his second term to usher through a set of regulations that could reshape the U.S. energy landscape and significantly reduce greenhouse gas emissions. But as his presidency winds down, he'll have to rely to others to make sure the rules—and his climate legacy—are cemented.

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Upcoming Events

EPA mine spill was preventable, points to broader problem

By Matthew Brown and Dan Elliott

BILLINGS, Mont. (AP) — Investigators are blaming the U.S. Environmental Protection Agency for a 3 million-gallon wastewater spill from a Colorado gold mine, saying an agency cleanup crew rushed its work, failed to consider the complex engineering involved and ended

up triggering the very blowout it hoped to avoid.

Members of Congress seized on the results of the two-month Interior Department investigation to slam EPA's handling of a spill that fouled rivers in three states.

The Aug. 5 accident has revived a long-simmering debate over the unresolved fate of hundreds of thousands of abandoned mines across the U.S, offering ammunition to both sides.

Whereas Republicans, including U.S. Sen. Cory Gardner of Colorado, focused their ire solely on the EPA, U.S. Sen. Michael Bennet, also of Colorado and a Democrat, coupled his criticism of the agency with a call for reforms that could speed mine cleanups.

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Key events leading up to massive Colorado mine waste spill

By The Associated Press

A U.S. Interior Department investigation released Thursday said the Environmental Protection Agency could have prevented a 3-million-gallon wastewater spill from a Colorado mine in August. The Bureau of Reclamation, which is part of Interior, provided this timeline of events concerning the cleanup of the long-inactive Gold King Mine in southwest Colorado:

2009: Concerned that a cave-in was holding back water inside the mine that might someday burst out, Colorado tries pushing a pipe through the debris to relieve the pressure.

2014: The state asks the EPA to reopen and stabilize the mine entrance because erosion from the hillside above has covered the pipe.

Sept. 11, 2014: The EPA starts excavating the mine opening, but it stops because water begins to seep out, and a nearby holding pond might not be big enough. With winter approaching, work is halted until 2015.

July 14, 2015: The EPA returns to the site

About July 23: The EPA's on-scene coordinator asks a Bureau of Reclamation official to visit the mine because the coordinator is unsure about plans to drain water. The visit is scheduled for Aug. 14 because the EPA official is going on vacation

Aug. 5: A different EPA on-scene coordinator, filling in for the one on vacation, is at the site. EPA and state officials agree to insert a pipe downward through the debris covering the mine opening to reach water inside and begin pumping it out. About 11 a.m., water begins spurting through the debris and then becomes a torrent. Eventually, 3 million gallons escape

Aug. 24: An EPA internal review concludes the blowout "was likely inevitable."

Oct. 22: The Bureau of Reclamation report says the EPA underestimated how much water was inside the mine. The report said the blowout could have been avoided if the EPA had drilled into the mine from above, measured how much water was inside and then revised its plan accordingly

Key witness testifies against ex-coal CEO boss

By Jonathan Matisse

CHARLESTON, W.Va. (AP) — A key government witness testified Thursday that his former coal boss, ex-Massey Energy CEO Don Blankenship, was a micromanager who considered it less expensive to break the law and pay fines than to implement appropriate safety measures prior to a deadly mine explosion in 2010.

During Blankenship's criminal trial in Charleston, former Massey subsidiary president Christopher Blanchard said violations could have been prevented if more miners were hired or more time was spent focusing on safety, and he said Blankenship had the power to make those changes.

It was acceptable to incur a certain amount of safety violations, even if they could have been avoided, Blanchard said.

"There was an understanding that a certain number of safety violations would be written that could have been prevented," said Blanchard, whose group of mines at Performance Coal

included Upper Big Branch Mine in West Virginia.

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Ryan pledges 'clean slate' as he seeks job of House Speaker

By Erica Werner

WASHINGTON (AP) — Rep. Paul Ryan, on his way to becoming speaker of the House and second in line to the presidency, says Congress must change its ways.

"We are not solving the country's problems; we are only adding to them," he says.

The 45-year-old House Ways and Means Committee chairman pledges to change that dynamic if selected speaker in elections next week. He is a lock for the job now that he's secured support from all factions of the House GOP, including the hardline Freedom Caucus.

"We have an opportunity to turn the page, to start with a clean slate, and to rebuild what has been lost," Ryan, the 2012 Republican vice presidential nominee, said in a letter to fellow Republicans late Thursday that formally announced his candidacy. "We can make the House a more open and inclusive body — one where every member can contribute to the legislative process."

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Alabama announces \$20 million settlement with Transocean

MONTGOMERY, Ala. (AP) — The owner of the drilling rig involved in the 2010 Gulf of Mexico oil spill is paying Alabama \$20 million to resolve legal claims related to the disaster.

Gov. Robert Bentley's office announced the settlement Thursday with Transocean, owner of the Deepwater Horizon rig.

The governor says Alabama suffered tremendous economic losses from the disaster, which dumped nearly 134 million gallons of oil into the Gulf of Mexico.

Bentley has said he wants to steer at least part of the Transocean money to the state's Medicaid program.

The Department of Justice and Gulf states earlier this year reached a \$20 billion settlement with BP PLC, which leased the rig from Transocean, to settle remaining claims related to environmental and economic damages from the spill.

A message from the American Petroleum Institute

America is now the world's #1 natural gas producer and will soon be #1 in oil. Now more than ever, abundant energy means abundant prosperity, opportunity and security for all Americans.

[Learn more at EnergyTomorrow.org](http://EnergyTomorrow.org)

Tech companies face rocky road on the way to making cars

By Bree Fowler

NEW YORK (AP) — Silicon Valley may think it can build a better car. But should it?

As tech giants like Google and Apple look to automobiles as the next frontier for innovation, they face a looming reality: Cars are a lot harder to manufacture and sell than smartphones.

Industry veterans and critics warn that the auto business is a different animal. It's fraught with massive costs to erect auto plants, complexities in developing new sales and service systems, and daunting liabilities involved when human lives are at stake.

Automakers recalled a record 64 million vehicles in 2014, shattering the old record of 30.8 million set in 2004.

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Despite US-led campaign, Islamic State rakes in oil earnings

By Hamza Hendawi and Qassim Abdul-Zahra

BAGHDAD (AP) — The Islamic State rakes in up to \$50 million a month from selling crude from oilfields under its control in Iraq and Syria, part of a well-run industry that U.S. diplomacy and airstrikes have so far failed to shut down, according to Iraqi intelligence and U.S. officials.

Oil sales — the extremists' largest single source of continual income — are a key reason they have been able to maintain their rule over their self-declared "caliphate" stretching across large parts of Syria and Iraq. With the funds to rebuild infrastructure and provide the largesse that shore up its fighters' loyalty, it has been able to withstand ground fighting against its opponents and more than a year of bombardment in the U.S.-led air campaign.

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The group has even been able to bring in equipment and technical experts from abroad to keep the industry running, and the United States has recently stepped up efforts to close off this support.

Washington has been talking to regional governments, including Turkey, about its concerns over the importing of energy infrastructure into IS-run territory in Syria, including equipment for extraction, refinement, transport and energy production, according to a senior U.S. official with firsthand knowledge of the IS oil sector.

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BLM green lights ConocoPhillips drilling in Alaska reserve

The Bureau of Land Management has granted a two-year drilling permit and right-of-way authorization to ConocoPhillips for a project planned in the National Petroleum-Reserve Alaska, FuelFix reports.

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House OKs measure to speed mineral mine permitting

Despite White House opposition, the GOP-led House has approved legislation that would set a 20-month deadline for permitting on mineral mines proposed for federal land, The Hill reports.

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Murkowski seeks details on oil swaps with Mexico

The Commerce Department may have approved the idea of oil swaps with Mexico back in August, but Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski sent a letter to Commerce Secretary Penny Pritzker on Thursday asking whether any plans have been finalized, and if not, what's holding them up, Reuters reports.

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Shale boom flooding U.S. with lower octane fuel

Fueled by the shale boom, gasoline prices have been dropping alongside falling crude prices, but the extra charge for high octane fuel is growing, Bloomberg reports.

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Businesses, governments fuel growth in wind generation

An American Wind Energy Association report says major commitments from corporations like Amazon and Hewlett Packard have helped add 3,596 megawatts of wind capacity to the grid in the first nine months of the year, nearly triple the figure from a year ago, Bloomberg reports.

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New record racked up by wind power in Texas

The Electric Reliability Council of Texas says it used 12,237.6 megawatts of wind power – 37 percent of total demand -- at 12:30 a.m. Thursday, beating the record set in September, FuelFix reports.

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Oil steady on positive European data

Positive data and the potential for stimulus moves by the European Central Bank helped support oil prices early Friday. U.S. benchmark crude was unchanged at \$45.38 a barrel in electronic trading on the Nymex, while in London Brent gained 20 cents to \$48.28, Reuters reports.

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Minnesota governor seeks to limit oil trains passing through Minneapolis

Minnesota Gov. Mark Dayton has written a letter to BNSF Railway, complaining about oil trains routed through downtown Minneapolis, and asking that the trains not be moved through the area when there is a game being played at Target Field, the StarTribune reports.

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Sharply lower oil, gas prices push Southwestern to 3Q loss

A \$2.8 billion impairment charge dragged Southwestern Energy Co. to a third quarter net loss of \$1.77 billion, despite the company's report of "excellent operational results," The Wall Street Journal reports.

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South Jersey county moving on alternative energy projects

Alternative energy projects planned for a landfill in Cumberland County, New Jersey include a plant to generate energy from food waste, the Press of Atlantic City reports.

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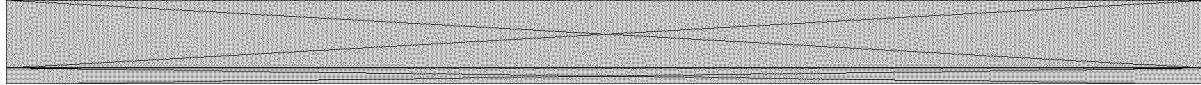
Chinese authorities challenge Coke plant pollution data

Chinese authorities charge that a Coca-Cola bottling plant in Lanzhou city falsified data about its sewage output, and say police briefly detained a company executive as a result, The

Economic Times reports.

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